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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,497	02/22/2002	David Alan Silva		3733

7590 12/17/2003
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EXAMINER

WILLATT, STEPHANIE L.

ART UNIT	PAPER NUMBER
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3732

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DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/082,497

Applicant(s)

SILVA, DAVID ALAN

Examiner

Stephanie L. Willatt

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 3-6 are objected to because of the following informalities:
 - In line 1 of claim 3, "decretive" should be --decorative--.
 - In line 2 of claim 3, "at least one bend" appears to be a double inclusion of "substantially sharp angles" recited in line 2 of claim 1.
 - Claim 4 recites the limitation of the user's hair in the last line. Parts of the human body cannot be claimed as apart of the invention. The insertion of --adapted to be-- between "is" and "placed" in line 5 of claim 4 would remedy this problem.
 - In line 2 of claim 6, "at least one bend" appears to be a double inclusion of "substantially sharp angles" recited line 2 of claim 4.
 - In line 1 of claim 6, "decretive" should be --decorative--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Henslow.

Henslow discloses a hair fastener including a zigzag member having a series of substantially sharp angles spread out in alternate directions, as shown in Figure 1. There are three angles: one located between limb (3) and part (5), one located in the middle of part (5), and one located between limb (4) and part (5). A wavelike shape (parts 6 and 7) is located at the end of the zigzag member, as shown in Figure 2. The zigzag member is substantially the same width throughout, as shown in Figure 1. A decorative member (ornament) is attached to two angles of the zigzag member, as shown in both Figures and discussed in lines 38-44.

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker.

Walker discloses a hair fastener including a zigzag member having a series of substantially sharp angles spread out in alternate directions, as shown in Figure 1. There are three angles: one located between each of the two outer tangs (4) and inner tangs (3), and one located between the inner tangs (3). A wavelike shape (corrugated portion 6) is located at the end of the zigzag member, as shown in Figure 2. The zigzag member is substantially the same width throughout, as shown in Figure 1.

5. Claims 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Weeks.

Weeks discloses a hair fastener including a zigzag member having a series of substantially sharp angles (ends 18) spread out in alternate directions, as shown in

Figures 5 and 6. The two side members (19 and 20) at each end of the zigzag member form a bobby pin. The zigzag member is substantially the same width throughout, as shown in Figures 5 and 6. The zigzag member is adapted to be placed into a section of hair, as described in column 3, lines 1-24.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Henslow.

Walker discloses the features discussed above, but does not disclose a decorative member on an angle of the zigzag member. Henslow discloses a decorative member (ornament) attached to two angles of the zigzag member, as shown in both Figures 1 and 2, and discussed in lines 38-44. It would have been obvious to one with ordinary skill in the art at the time the invention was made to make the zigzag member of Walker with a decorative member, as taught by Henslow, in order to further decorate the user's hair.

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8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weeks in view of Zinn.

Weeks discloses the features discussed above, but does not disclose a decorative member on an angle of the zigzag member. Zinn discloses a decorative member (head section 1) attached to a comb (toothed section 2). The comb of Zinn performs the same function as the zigzag member of Walker. The function of Zinn can be found in lines 8-14 and the function of Weeks can be found in column 3, lines 1-24. It would have been obvious to one with ordinary skill in the art at the time the invention was made to make the zigzag member of Walker with a decorative member, as taught by Zinn, in order to further decorate the user's hair.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wilson, Coruba, Roney, Interrante, Eggeman, McVicker disclose hair fasteners with alternating angles.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie L. Willatt whose telephone number is 703-305-6316. The examiner can normally be reached on M-F (8:30-6:00) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on 703-308-2582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


slw

**KEVIN SHAVER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700**